oral promise of the grantor to plaintiffs that it would incorporate the usual restrictive clauses in all deeds made by it, which was void under the Statute of Frauds. The court disposes of this claim by saying that the oral promise would be unenforcible as an attempt to create an interest in the lands to be conveyed, but that in this case the plaintiffs have no interest or easement in defendant's land in the sense of the Statute of Frauds. The court gives no explanation of why the agreement is not within the Statute of Frauds. It is difficult to understand why the right claimed by the plaintiffs, to control and dictate as to the use which should be made of this lot, and the manner in which defendant should build upon it, is not an interest in the land within the Statute. In *Sprague* v. *Kimball,* 213 Mass. 380, it was held that such an agreement as is involved here created an interest in the land within the Statute. See also, *Ham* v. *Massoit Real Estate Co.,* (R. I.), 107 Atl. 1205; 19 MICH. L. REV. 219. However, conceding that the promise in this case is within the statute, in some jurisdictions the decision might be supported on the theory of estoppel. *Lennig* v. *Ocean City Ass'n,* 41 N. J. Eq. 606; *Woods* v. *Lawrence,* (Tex.), 109 S. W. 418. For a general discussion of the question see, TIFFANY, REAL PROPERTY, Vol. 2, [2nd Ed.] 1425 *et seq;* 45 L. R. A. (N. S.) 962; 16 MICH. L. REV. 90.

FRAUDS, STATUTE OF—PLEADING SIGNED BY COUNSEL SUFFICIENT MEMORANDUM WITHIN 4TH SECTION OF STATUTE OF FRAUDS.—A sued B for specific performance of a contract to sell a house. Defense, signed by counsel, that B had already contracted to sell to C, and counterclaim for rescission. A then added C as defendant. C relied on his contract, and counterclaimed that he was entitled to the house free from A's claim. A in answer to C relied on the Statute of Frauds. *Held,* that B's defense (which contained all the terms of C's contract) was a sufficient memorandum within the Statute, and therefore specific performance was denied. *Grindell* v. *Bass* [1920], 2 Ch. 487.

The purpose of the Statute is not to impose a new rule of law as to what constitutes a valid contract, but only to require a formality of proof in order to make a contract enforceable. WILLISTON ON CONTRACTS, SECTION 579. Therefore, it is immaterial with what purpose the requirement of the Statute is fulfilled. The parties do not need to intend the paper signed to be a memorandum of sale. They may have the contrary intention. For example, it is not unusual for a party to write a letter, in which, after stating the terms of the bargain, he repudiates it, or refuses to enter into a written contract. Yet the courts have consistently held that such a letter satisfies the requirements of the Statute. *Drury* v. *Young,* 58 Md. 546; *Heideman* v. *Wolfstein,* 12 Mo. App. 366; *Poel* v. *Brunswick Balke-Callender Co.,* 114 N. Y. S. 725; *Dewar* v. *Mintoft,* [1912] 2 K. B. 373. It is certainly true that the attorney in the instant case had no authority to sign a memorandum of the sale; but, it goes without saying, that he did have authority to sign the pleadings filed in the former suit. The Statute requires that the memorandum be signed by the party to be charged, or "by his agent thereunto lawfully authorized." But authorized to do what? Must he be authorized to sign a note or memorandum of sale, or is it sufficient if he is authorized to sign the paper which he did

in fact sign? There seems to be no authority in this country on this particular point. But an English case, *Cycle Corp.* v. *Humber,* [1899] 2 Q. B. 414, held, in accordance with the conclusion in the instant case, that it was sufficient if the agent was authorized to sign the particular document which he did sign. It is submitted that this is the correct view.

GAME—RIGHT TO SHOOT WILD FOWL IN NAVIGABLE WATERS.—Defendant trustees, acting upon the assumption that they had the exclusive right of hunting and fishing in a certain tract, leased certain parts of a bay to a third party "for * * * purpose * * * of the gunning privilege and the right of shooting wild fowl." Upon the suit of a taxpayer to have the lease set aside on the ground that the trustees possessed no right to grant such privileges, *held,* that since the public had a right of passage over the bay it possessed the right to shoot wild fowl therein, and the lease was therefore void. *Smith* v. *Odell, et al.,* (N. Y. Supreme Court, 1921), 185 N. Y. S. 647.

The decision in the instant case proceeds on the theory that the privilege of shooting wild fowl is incidental to the right of navigation. Although some courts have upheld this doctrine, *Ainsworth* v. *Hunting and Fishing Club,* 153 Mich. 185, 116 N. W. 992; *Forestier* v. *Johnson,* 164 Cal. 24, 127 Pac. 156; yet generally where the soil is privately owned the existence of such an incidental right has been denied. *Schulte* v. *Warren,* 218 Ill. 108, 75 N. E. 783. See 16 MICH. L. REV. 37. The court attempts to justify its stand by drawing an analogy between the right to shoot wild fowl on navigable streams and the right to take wild game on land upon which one enjoys an easement. The answer is that a person who enjoys an easement on the land of another, for example for highway purposes, has no incidental right to shoot game thereon. He can use the land *for highway purposes only.* Any act inconsistent with his easement or in excess thereof makes the person, who up to that point was lawfully on the land, a trespasser. *Queen* v. *Pratt,* 4 El. & B. 860; *Adams* v. *Rivers,* 11 Barb. 390. The same rule should apply to the shooting of wild game in navigable waters, in which the public enjoys only a right of passage.

INFANTS—ACTION FOR PRENATAL INJURIES SUSTAINABLE.—In an action of negligence for injuries sustained while *en ventre sa mere,* it was *held,* that such an action could be sustained under the principles of the common law. *Drobner* v. *Peters* (1921), 186 N. Y. Supp. 278.

For a good many purposes an infant *en ventre sa mere* has been considered in existence, but in no case so far as is known has he been allowed to maintain a tort action for personal injuries. In general, however, the trend of the decisions seems to be that, for all purposes beneficial to the infant, an infant *en ventre sa mere* may be considered to be born. Thus such a child has been considered to be *in esse* for the purpose of securing a valid limitation of estates, *Long* v. *Blackall,* 7 Durn. & East 100; *Doe* v. *Clark,* 2 H. Black. 399; or he may take an estate by bequest, *Thelusson* v. *Woodford,* 4 Ves. Jr. 227. Or he may maintain action for the death of his father before birth due to the wrongful or negligent acts of another, *The George and Richard,* 3 L. R. Adm. 466; *Herndon* v. *St. Louis & S. F. Rd.,* 37 Okl. 256,